

1 BARRY J. PORTMAN
Federal Public Defender
2 LARA S. VINNARD
Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
San Jose, CA 95113
4 Telephone: (408) 291-7753

5 Counsel for Defendant MEDINA-MORALES

E-FILED - 8/11/09

6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,
12
13 Plaintiff,
14 v.
15 GABRIEL MEDINA-MORALES
16 Defendant.

Case No.: CR 09-00425-RMW

**STIPULATION TO CONTINUE
HEARING AND EXCLUDE TIME;
[] ORDER**

Honorable Ronald M. Whyte

17
18 Defendant and the government, through their respective counsel, hereby stipulate that, subject
19 to the court's approval, the hearing in the above-captioned matter, presently scheduled for Monday,
20 August 3, 2009 at 9:00 a.m., be continued to Monday, September 21, 2009, at 9:00 a.m. The
21 continuance is requested to allow time for effective defense preparation and investigation. Presently,
22 the defense is in the process of obtaining transcripts and records regarding Mr. Medina-Morales'
23 enhancing prior case.

24 The parties further agree that time should be excluded under the Speedy Trial Act because the
25 ends of justice served by granting the requested continuance outweigh the interest of the public and
26

STIP. TO CONTINUE;
[] ORDER
No. CR 09-00425-RMW

1 the defendant in a speedy trial. The failure to grant the requested continuance would deny defense
 2 counsel reasonable time necessary for effective preparation, taking into account the exercise of due
 3 diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this
 4 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

5
 6 Dated: 7/29/09

/s/
 LARA S. VINNARD
 Assistant Federal Public Defender

7
 8 Dated: 7/30/09

/s/
 CHAD MANDELL
 Assistant United States Attorney

9
 10 **[] ORDER**

11
 12 The parties have jointly requested a continuance of the hearing set for Monday, August 3,
 13 2009, to allow time for effective defense preparation and investigation.

14 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the hearing date presently
 15 set for Monday, August 3, 2009, be continued to Monday, September 21, 2009, at 9:00 a.m.

16 Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded
 17 under the Speedy Trial Act from August 3, 2009 to September 21, 2009. The Court finds, based on
 18 the aforementioned reasons, that the ends of justice served by granting the requested continuance
 19 outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the
 20 requested continuance would deny defense counsel reasonable time necessary for effective
 21 preparation, taking into account the exercise of due diligence, and would result in a miscarriage of
 22 justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.
 23 §§ 3161(h)(8)(A) and (B)(iv).

24 Dated: 8/11/09

Ronald M. Whyte
 RONALD M. WHYTE
 United States District Judge